IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 12TH SEPTEMBER 2007 / 21ST BHADRA 1929

Crl.MC.No. 2871 of 2007()

[AGAINST C.C.NO.17/2007 OF THE CHIEF JUDICIAL MAGISTRATE COURT, ALLEPPEY]

PETITIONER:

M.DANIELKUTTY,
T.M.ASSOCIATES, PULAMON (P.O),
KOTTARAKKARA.

BY ADV. SRI.RAJESH VIJAYENDRAN

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

2. P.ARJUNAN, PROPRIETOR,
M/S GOOD MORNING ENTERPRISES,
C.C.S.B.ROAD, ALAPPUZHA.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2871 of 2007

Dated this the 12th day of September 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. The cheque is drawn on an account maintained by the petitioner. The petitioner's real name is Danielkutty. But the notice of demand, the complaint etc. are in the name of one Daniel Babu. In short, the contention is that the name shown in the complaint and in the notice of demand does not really tally with the name of the petitioner, who is the account holder. The petitioner has rushed to this court with the prayer that the proceedings initiated under Section 138 of the Negotiable Instruments Act in the name of Daniel Babu in which the petitioner has been served and has entered appearance may be quashed.

2. I find absolutely no merit in the prayer. The account, it is evident, is maintained by the petitioner. The long and the short of the dispute is about the description of the name of the petitioner. He, according to him is Danielkutty; but in the

complaint and in the notice of demand, the account holder is described as Daniel Babu. For the above reason, the complaint cannot be quashed. The petitioner can certainly raise all his contentions including the alleged mis-description of the name of the account holder in the notice of demand and in the complaint before the learned Magistrate in the course of the trial.

3. With the above observation, this Criminal Miscellaneous Case is dismissed.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007